

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9539 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHOGILAL CHAGULAL PVT LTD AND ANR.

Versus

UNION OF INDIA AND ORS.

Appearance:

MR PRASHANT G DESAI for Petitioners

MR JD AJMERA for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 09/01/97

ORAL JUDGEMENT

Rule. Mr. J.D.Ajmera, learned Counsel waives service of notice of rule on behalf of the respondents.

At the request of learned Advocates appearing for the parties, the petition is heard today.

2. By means of filing this petition under Article

226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or a writ of certiorari or any other appropriate writ, order or direction to quash and set aside bill produced at Annexure-A and the impugned decision dated November 8,1996/November 13,1996, which is produced at Annexure-S to the petition.

3. Earlier the petitioner had filed Special Civil Application no. 1109 of 1995 challenging the bill issued by the competent authority. The Court (Coram : N.N.Mathur,J.) had passed following order on April 3,1996 :-

"Mr P.G.Desai,learned Advocate for the petitioner has taken pains to indicate some of the abnormalities in the telephone bill which have material bearing on the system of billing. Be that as it may, it will not be for this Court to appreciate the same. The petitioner may approach the Senior General Manager, Ahmedabad Telecom Circle by way of making representation.If such a representation is made within a period of two weeks, the same shall be decided by the Sr.General Manager, Ahmedabad Telecom Circle in its right perspectives within a period of one month from the date of receipt of the representation. With this direction, this Special Civil Application is accordingly disposed of. It goes without saying that if there is an adverse order, it is open for the petitioner to take appropriate remedy including approaching this court."

3. Pursuant to the above quoted order, the petitioner had made representation to the Senior General Manager on April 15,1996,which is produced at Annexure-P to the petition. The grievance of the petitioner is that before passing the impugned order,no personal hearing was accorded to the petitioner by the Senior General Manager, Ahmedabad Telecom Circle, Ahmedabad. The Court while disposing of Special Civil Application no. 1109/95 had directed the Senior General Manager, Ahmedabad Telecom Circle to decide representation in its right perspectives. Under the circumstances, before deciding representation a personal hearing ought to have been accorded to the petitioner. It is an admitted fact that no personal hearing was afforded to the petitioner before passing the impugned order. Therefore, the impugned order which is produced at Annexure-S to the petition is liable to be set aside and quashed.

For the foregoing reasons, the petition partly succeeds. The order dated November 8,1996/ November 13,1996 which is produced at Annexure-S to the

petition, is hereby set aside and quashed. The Senior General Manager, Ahmedabad Telecom Circle, Ahmedabad is directed to decide the representation dated April 15, 1996 which was made by the petitioner, on merits and after according personal hearing to the petitioner. The representation made by the petitioner shall be disposed of by the Senior General Manager, Ahmedabad Telecom Circle as early as possible and without any avoidable delay.

Rule is made absolute to the extent indicated hereinabove, with no order as to costs.

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